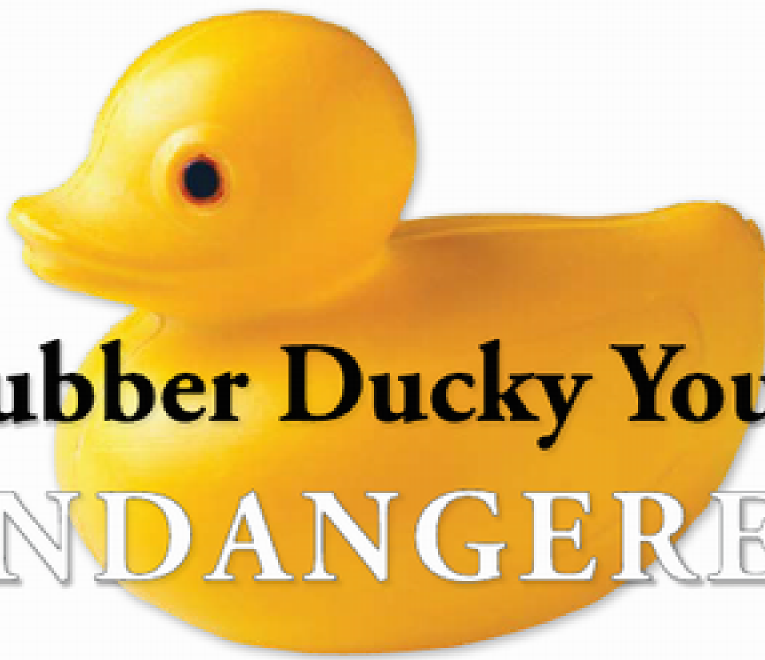
Celebrating 35 Years 1973-2008

INSIDE ALEC

March 2008 A Publication of the American Legislative Exchange Council



Rubber Ducky You're ENDANGERED

This Issue:

Meet ALEC's 2008 National Chairman

Rich States Poor States

New Model Bills

Plus Transportation, Environment, and Health Care News

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Legacy Membership Program ALEC invites its legislative members to become part of the Legacy Membership Program. By joining this program, ALEC Legacy Members help ensure the long-term sustainability of the organization through a restricted capital fund. The first 50 contributors will become "Charter Legacy Members" and receive free registration to ALEC conferences for life, a permanent name badge for this purpose, and a plaque honoring them for their commitment to ALEC and the organization's Jeffersonian principles. Finally, when funds from the program are used for infrastructure improvement within ALEC, Charter Legacy Members will be honored with a dedication plaque.

For more information contact Michael Conway, Director of Corporate and Legacy Programs, at 202-742-8528 or by e-mail at mconway@alec.org.

2008 ALEC Calendar

May 16-17 Spring Task Force Summit Hot Springs, AR

July 30-Aug. 2 Annual Meeting Chicago, IL

December 4-6 States & Nation Policy

Summit

Washington, D.C.

2008 State Membership Events

January 14: South Dakota February 20: Arizona January 19-20: New Mexico February 28: Wyoming February 6: Florida March 5: Kansas February 20: South Carolina March 13: Mississippi February 20: Washington March 25: Missouri

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States & Nation Policy Recap 2008 National Chairman Named

ALEC's 2008 National Chairman, Sen. Steve Faris (right), and Scott Fisher (center), District Director of State Government Affairs for Altria Corporate Services and First Vice Chairman of ALEC's Private Sector Board, honor Iowa Rep. Dolores Mertz, ALEC's 2007 National Chairman.

State legislators from across the United States joined policy experts and business leaders at the American Legislative Exchange Council's 2007 States & Nation Policy Summit this past December in Washington, D.C. For three days, ALEC members attended meetings to discuss new model legislation and hear presentations from policy experts on topics ranging from health care to tort reform.

This year's summit included special presentations by U.S. Sen. Tom Coburn, former House of Representatives Majority Leader, Rep. Richard Gephardt, Sandy K. Baruah, Assistant U.S. Secretary of Commerce for Economic Development, Stephen Moore of the Wall Street Journal, renowned economist Dr. Arthur Laffer, and ALEC Alumnus, New Jersey Congressman Scott Garrett.

U.S. Sen. Tom Coburn (right) with Del. Bill Howell, Speaker of the Virginia House of Delegates and ALEC's Second Vice Chairman.

Dr. Arthur Laffer, architect of the “Laffer Curve,” presents his findings from ALEC’s publication Rich States, Poor States.

States and Nation Policy Summit

Former House of Representatives Majority Leader, Rep. Richard Gephardt, addresses ALEC members on the value of public- private partnerships in transportation.

Attendees also saw the transition of the ALEC National Chairmanship from Iowa Rep. Dolores Mertz to Arkansas Sen. Steve Faris.

“It is an honor and a pleasure to be named as the American Legislative Exchange Council’s 2008 National Chairman,” Faris said. “ALEC is a great organization because of the principles upon which it was founded— American principles of free enterprise and individual rights, which transcend party labels.”

Sen. Faris was first elected to the Arkansas State House of Representatives in 1997 and was elected to the Arkansas State Senate in 2000. He is the chair of the Senate Rural Fire Departments Study Committee and State Agencies & Governmental Affairs—Senate. He is also the vice chair for the Arkansas Legislative Council. Sen. Faris has been a member of ALEC for 10 years. “ALEC’s success now and in the future can be found in the strength of our membership, in the dynamic public-private partnerships we forge, and in the frank policy discussion that lead us to create outstanding model legislation,” Faris added. “As ALEC’s new National Chairman I look forward to the challenges ahead and to the opportunities presented to us to reach out to new and old legislators and continue the growth of this organization.”

ALEC Alumnus, New Jersey Congressman Scott Garrett.

Have you ever been completely absorbed in a television program, only to lose the signal right at the show's climactic ending? Something similar could happen to hundreds of thousands of people—all at once.

A year from now, all TV broadcasting will operate on the new digital standard, or high-definition (HD). Analog television sets not connected to cable, satellite or other pay television service will no longer be able to view TV broadcasting.

Analog TV broadcasting's finale will take place February 17, 2009. Fortunately, private marketing campaigns have helped spur public consciousness about TV's analog-to-digital transition. But increased public awareness efforts by state policymakers can help ensure that analog TV ends not with a bang, but a wimper.

Three years ago, the United States Congress set the February 17, 2009 digital television conversion date. By transitioning from analog to digital, broadcasters will be able to offer viewers superior picture and sound. Also, digital broadcasting uses less spectrum than analog. The surplus spectrum, available after the transition, will be auctioned for expanded commercial wireless use, with other surplus spectrum dedicated for public safety use—as ordered by Congress

On the last day of 2007, the Federal Communications Commission (FCC) issued a report and order on the progress of broadcaster facility compliance with the new digital standard. According to FCC Commissioner Robert M. McDowell, "the FCC is doing all that it can to ensure that broadcasters meet the February 17, 2009 deadline." More importantly, McDowell pointed out that TV viewers have market forces working in their favor. Broadcasters seeking to provide content to TV viewers have strong market incentive to keep their viewers informed of the coming digital transition. "No one has more to lose than the broadcasters do when it comes to this transition," he said. "Broadcasters are spending hundreds of millions in primetime."

Public awareness of the digital transition was a hot topic at the FCC oversight hearing conducted by the U.S. Senate's Commerce, Science and Transportation, December 13, 2007. A November 2007 survey by the National Cable & Telecommunications Association indicates that public awareness of the digital transition is growing. According to the survey, approximately 48 percent of households are aware of the coming transition.

A Crystal-Clear Message for TV Users Analog television to become obsolete in one year

By Seth Cooper

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Of households with televisions not connected to broadband or cable service provider, 31 percent are aware.

Congress previously directed the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce to administer a digital-to-analog converter box coupon program. Converter boxes will allow televisions without digital tuners to continue to view TV broadcasts after the digital transition. Under the NTIA program, beginning January 1, 2008, every American household may request up to two coupons worth $40 each toward the purchase of basic converter boxes. There were approximately 845,000 requests for coupons in the first few days of the NTIA coupon program. That number exceeded all previous expectations, noted McDowell. "It's a fantastic indicator of the amount of public awareness."

While both the trends spotted in survey findings and the early response to the NTIA coupon program are encouraging, some debated technological questions remain. For example, a recent study by the Centris market research firm suggests that digital signals might be strong enough to reach significant numbers of households. Hopefully, greater light will be shed on such matters in the next few months. David Donovan, President of the Association for Maximum Service Television, has voiced sharp disagreement with the study's technological

assumptions and has called its methodology “fundamentally wrong”.

In the meantime, state policymakers can also increase public awareness of the digital transition by informing their respective constituents. The Digital Transition Coalition, comprised of industry groups and government organizations, provides user-friendly information on its Web site (www.dtvtransition. org). Distributable brochures about the NTIA’s coupon box program can be obtained from the NTIA (www.ntia.doc.gov/ dtvcoupon/). The FCC has its own Web site devoted to the digital transition (www.dtv.gov).

With increasing numbers of consumers purchasing high- definition (HD) TVs and HD broadcasting through satellite, fiber-optic broadband connections and premium cable offerings, the digital transition may be ho-hum to many. But don’t count out analog TV owners, who might unwittingly find themselves viewing a TV picture every bit as snowy as the chilly outdoors on February 17, 2009.

Seth Cooper is the Director of the Telecommunications and Information Technology Task Force at ALEC. Send him an e-mail at sethcooper@alec.org.

The American Legislative Exchange Council teamed up with the Council for Affordable Health Insurance (CAHI) to publish the annual State Legislators' Guide to Health Insurance Solutions. The 2008 edition of the guide dispels common myths about our health care system — including those perpetuated by Michael Moore's movie "SiCKO" — and promotes the message that state legislators should trust the free market to lower health costs and increase quality of care.

The guide delves into several popular topics — including single-payer health care and Health Savings Accounts, among many others — and explains how each of these reforms can either benefit consumers and the health insurance market or conversely, to what extent it will damage them.

The problems in America's health care system are hardly the result of too little government intervention; rather, overregulation and a skewed tax policy have corrupted natural market mechanisms. By taxing the income individuals use to pay for health insurance when it is not provided by their employer, while at the same time not counting employer provided health insurance as income, current tax policy discourages individuals from buying their own health insurance. The price of insurance is also driven further out of reach for consumers when states institute coverage mandates for such things as wigs and acupuncturists.

One myth debunked by the authors is that mandating everyone to have health insurance — either by purchasing private insurance or through bloated entitlement programs — will somehow make insurance more affordable for everyone. By mandating coverage, legislators would be required to set a minimum coverage

ALEC and CAHI Unveil Health Guide

By Dave Myslinski

standard that insurers would have to offer. As time goes on, providers would pressure legislators to include their services as part of the minimum coverage required by law, which in turn would raise the cost of insurance.

Throughout the guide, the authors use several states as examples of good and bad policy decisions. In 1994, Kentucky adopted laws for guaranteed issue (which requires that insurers cover everyone who applies without regard to their current health status) and community rating (which forces the insurer to charge the same premium for everyone in the group regardless of each individual's actual health).

These "reforms" resulted in many insurers leaving the state. With less competition and higher costs among the remaining insurers, prices went up while service and consumer choice went down. Faced with these unexpected consequences, Kentucky legislators backtracked and in 2004 relaxed the regulations regarding required benefits, allowing competition to return.

With health care being a top issue among presidential candidates and state legislators this year, and many considering "reforms" such as a single-payer system or individual mandates, policy makers everywhere will be well served by this guide.

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The 2008 State Legislators' Guide to Health Insurance Solutions is available at www.alec.org.

used before if possible>

POLICY FORUM

A School House for the 21st Century Virtual education in the United States

By Justin Tuskan

A decade ago, the idea of a child attending school miles from an actual school building was met with skepticism. In recent years, however, online K-12 education has grown rapidly throughout the country and is fast becoming a natural alternative to traditional school for some students.

Like many innovations in education, online learning has been met with some resistance. Yet, at a time when technology is revolutionizing every industry and traditional schools are failing to meet the academic needs of all students, virtual education is providing a strong alternative that gives our education system a much needed boost.

Broadband Internet access, rich media, and live instruction via Web cams are just some of the factors influencing the expansion of online classrooms. So is consumer choice; parents value the ability to pursue the educational options that best fit their child's needs, and are turning to virtual schools more and more.

According to the 2007 Keeping Pace with K-12 Online Learning report published by Evergreen Consulting Associates, 42 states currently have significant online learning programs, up from 38 states at the end of 2006. Of the eight states that do not offer virtual learning alternatives, several are in the process of developing their own programs. At the same time, the number of students using online learning programs is growing. Forty percent of programs responding to a recent survey reported annual growth of more than 25 percent in the 2006-2007 school year, and half of those with growth of 50 percent or higher.

Virtual learning may not be for everyone, but for many it is the best way to meet their educational needs. It can serve to supplement the traditional classroom experience for students who are looking for extra help or who simply want to take a course not offered at their school. For example, students who wish to go beyond

their required classes can access a wide selection of elective courses, including advanced languages such as Mandarin Chinese. In school districts where highly qualified teachers are scarce, full-time online classrooms have brought the best and brightest to those in need, creating a more level playing field for struggling students. Overall, online learning opens up new opportunities for any child, anywhere.

When it comes to any education program, parents and policymakers alike are always most concerned with student performance, and virtual schools do not disappoint. Students who attend an online classroom fulltime are held accountable through the same state

tests as any other child, and supplemental programs are usually monitored by the "brick and mortar" schools that offer them. Test results vary state to state, but illustrate the important fact that virtual schools produce students who score as well if not better than traditional classroom students on standardized assessments. In Florida, for example, both virtual K-8 programs received an "A" on the 2007 statewide school report card, while Ohio's top-performing e-schools were at or above the state average for reading in 2006. Arizona's virtual schools rated "Performing" and "Performing Plus" in their 2006 evaluation.

But what about college readiness? Are virtual students as prepared? If scores on Advanced Placement exams are any indication, the answer is "yes." A 2005 study conducted by the Center for Education Reform compared AP exam data from three online programs (Apex Learning, Florida Virtual School, and Virtual High School) against the national average of all students taking AP exams. The pass rate for the students in virtual schools was a strong 65 to 79 percent, compared to the national rate of only 60 percent. Since AP classes

are designed to cover material at the same level as a college freshman class, it is clear these students are ready for the academic challenges of university life.

Education is nothing without teachers, and those working in virtual classrooms are professional, state-licensed, and meet the highly qualified teacher definition of No Child Left Behind. As with all K-12 education, parents play an important role, but only a supporting one, and make no decisions regarding curriculum. According to Mickey Revenaugh of Connections Academy, a leading provider of virtual education resources and a valued member of ALEC's Education Task Force, many teachers actually believe that the virtual setting is better than the traditional classroom. They enjoy the ability to focus all their energy on the main objective of educating students, rather than juggling other responsibilities like lunchroom monitoring and frequent meetings. Teachers also report knowing their online students as well or even more than students they have taught in face-to-face settings.

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POLICY FORUM

Transportation Road Block New Congressional report increases federal role

By Michael Hough and Jonathan Williams

The National Surface and Transportation Revenue Study Commission released its much anticipated report, "Transportation for Tomorrow," which contains recommendations to improve our nation's transportation system. Unfortunately, although the report contains positive recommendations like streamlining the federal approval process to build new roads and developing a dedicated revenue source for mass transit, the main thrust of the report is a call for higher taxes and increasing the role of the federal government—an idea that is a proven failure.

The National Surface and Transportation Revenue Study Commission was created by the 2005 highway funding bill (SAFETEA-LU); it is charged with studying transportation revenue sources and developing a strategic plan to "ensure our transportation system will continue to serve the needs of the United States." The commission is attempting to tackle some serious problems because the Federal Transportation Trust Fund, which is funded primarily by gas tax revenues, is facing a $4-5 billion deficit beginning in 2009, and according to the Department of Transportation, the current level of congestion on our roads is costing the U.S. economy as much as $200 billion a year.

The commission correctly noted the dismal performance of the federal government in maintaining and building roads. In fact, it concluded, "[C]urrent federal surface transportation programs should not be 're-authorized' in

their current form." The continued reliance of Congress on earmarks to fund transportation projects is partly responsible for our transportation woes. The report found the number of earmarks has increased from 10 projects in 1982 to more than 6,300 in 2005. Ironically, President Ronald Reagan vetoed the entire 1987 transportation bill because of the "largesse" of its 152 earmarks—so much for progress.

The problem with earmarks is the funding often goes to a pet project in a member's district rather than to vital bridge repairs or road expansions. One infamous transportation earmark was the "bridge to nowhere," which would have cost taxpayers $220 million to connect a small town in Alaska to an island with 50 inhabitants.

The commission found that road construction projects, with federal government involvement, take an upwards of 10 years from the time the road is planed until construction actually begins. During this 10-year period it takes five years just to complete all the required environmental studies. The commission made several suggestions to streamline the current bureaucratic process including eliminating redundant studies and lessening the amount of time for government agencies to complete a study. However, even if the commission's recommendations are implemented, they estimate it will only reduce the amount of time it takes to complete the required environmental studies from five years to three.

The commission agreed with ALEC that the “user fee” system should be extended to mass transit, which currently relies on Highway Trust Fund revenues. The commission also agreed with ALEC’s principles that public-private partnerships (PPP’s) must play a vital role in rebuilding our nation’s roads. On both these issues the report contained positive recommendations including the creation of “user fee” for mass transportation systems like AMTRAK and an understanding that private investment must play an important part in funding road construction. However, according to Peter Loughlin of Moving America Forward, “[T]he report calls for establishing processes that could severely limit states being able to advance public- private partnerships and take advantage of private sector innovation and investment.”

commission's report, NASTRAC is described as a necessary tool to raise taxes. According to the report:

"Its purpose [NASTRAC] would be to de-politicize how we make Federal transportation investment decisions, as well as how we choose to pay for them. For example, one explanation for the long periods of inaction in raising the Federal fuel tax during the past few decades is that Congress has not been presented with a clear mission for the Federal transportation program since completion of the Interstate Highway System. The Commission's recommendation for NASTRAC to oversee development of a national strategic plan to guide future Federal investment is intended to cure that deficiency."

Therefore, under the new proposed system a group of unelected individuals, who are unaccountable to the public, would have the ability to increase taxes and set transportation spending priorities.

In response to the report, commission members Mary Peteres, Secretary of the Department of Transportation, Commission Chairman Maria Cino, and Rick Geddes wrote:

"The fact that the public has overwhelmingly opposed an increase in Federal fuel taxes since 1993 represents a lack of investor confidence in current transportation policy. The public correctly understands that increased fuel taxes will not remedy the woefully inadequate transportation system performance they so frequently experience today. Accordingly, neither Congress nor successive Administrations have supported increases in gas taxes, despite the obvious and rapid deterioration in transportation system performance."

They were also correctly critical of the commission's calls for a greater federal role:

"It is implausible that the Federal government would substantially increase its financial participation in surface transportation infrastructure while simultaneously eliminating many of the burdensome processes that have been put in place. Far more likely is that increased financial participation will come with additional procedural requirements, greater delays in project decision-making, more special interest programs...."

Finally the minority of commissioners wrote that the creation of independent transportation board was, "neither

Despite several correct observations by the commission, including that the federal government's earmark-laden funding and overly bureaucratic road construction system is fundamentally broken, they ignored their own findings and called for an increased role for the federal government.

The commission calls for the federal government to depart from many of the reforms that were introduced in 1991, which allowed states greater flexibility and authority over the use of highway funds. Instead the commission calls for a new "third era," consisting of greater federal involvement, higher taxes, and the creation of a new unelected transportation commission to administer funding and raise taxes.

In order for the federal government to increase its role in transportation, the commission calls for the following tax increases: a five to eight cent increase of the federal gas tax—every year—for the next five years after which tax increases would be indexed to inflation; the creation of a federal freight tax; and increased state gas taxes and transportation fees.

The most troubling aspect of the report is the commission's call for a National Surface Transportation Commission (NASTRAC), which will make tax recommendations to Congress and decide transportation spending priorities. Worst yet, Congress can only defeat NASTRAC's recommended tax increases by a two-thirds vote. If Congress takes no action, NASTRAC's recommended tax increases would automatically become law. In the

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